

CHAPTER 74

TRANSPORTATION

SENATE BILL 06-078

BY SENATOR(S) Wiens, Isgar, May R., Bacon, Brophy, Dyer, Entz, Evans, Fitz-Gerald, Gordon, Hanna, Johnson, Jones, Keller, Kester, Lamborn, Owen, Shaffer, Taylor, Teck, Tochtrop, Traylor, Tupa, Williams, and Windels;
 also REPRESENTATIVE(S) McKinley, Green, Borodkin, Hefley, Larson, Stafford, Berens, Boyd, Butcher, Carroll M., Clapp, Cloer, Coleman, Crane, Decker, Frangas, Gallegos, Gardner, Hodge, Hoppe, Jahn, Kerr, King, Knoedler, Liston, Madden, Marshall, Massey, May M., McCluskey, Merrifield, Paccione, Penry, Ragsdale, Romanoff, Rose, Solano, Stengel, Sullivan, Todd, White, and Witwer.

AN ACT

CONCERNING A PROHIBITION AGAINST THE EXERCISE OF THE POWER OF EMINENT DOMAIN BY A PRIVATE CORPORATION TO CONDEMN THE PRIVATE PROPERTY OF ANOTHER PERSON OR ENTITY FOR THE PURPOSE OF ACQUIRING RIGHTS-OF-WAY FOR A PRIVATE TOLL ROAD OR PRIVATE TOLL HIGHWAY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 45 of title 7, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

7-45-104. Acquisition of right-of-way. NOTWITHSTANDING THE PROVISIONS OF SECTION 38-2-101, C.R.S., ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, A CORPORATION FORMED UNDER THIS ARTICLE SHALL NOT HAVE THE POWER TO EXERCISE THE RIGHT OF EMINENT DOMAIN TO ACQUIRE ANY PART OF THE RIGHT-OF-WAY OF THE LINE OF A PROPOSED TOLL ROAD OR TOLL HIGHWAY SPECIFIED IN THE CERTIFICATE OF INCORPORATION OF THE CORPORATION AS REQUIRED BY SECTION 7-45-101 (1). NOTHING HEREIN SHALL PROHIBIT A CORPORATION FROM ENTERING INTO A PUBLIC-PRIVATE INITIATIVE WITH THE DEPARTMENT OF TRANSPORTATION IN ACCORDANCE WITH THE PROVISIONS OF PART 12 OF ARTICLE 1 OF TITLE 43, C.R.S., FOR THE PURPOSE OF ENABLING THE CONSTRUCTION OF SUCH A TOLL ROAD OR TOLL HIGHWAY, BUT IN SUCH A CASE THE POWER OF EMINENT DOMAIN SHALL NOT BE EXERCISED BY THE CORPORATION AND MAY BE EXERCISED BY THE DEPARTMENT ONLY FOR PURPOSES OF ACQUIRING PROPERTY AND RIGHTS-OF-WAY NECESSARY FOR THE COMPLETION OF A TOLL ROAD OR TOLL HIGHWAY OPEN TO THE PUBLIC THAT IS INCORPORATED INTO THE STATEWIDE TRANSPORTATION PLAN

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

PREPARED PURSUANT TO SECTION 43-1-1103 (5), C.R.S. IN EXERCISING THE POWER OF EMINENT DOMAIN, THE DEPARTMENT SHALL COMPLY WITH ALL LAWS AND ADMINISTRATIVE RULES THAT GOVERN THE DEPARTMENT'S USE OF EMINENT DOMAIN FOR STATE HIGHWAY PROJECTS.

SECTION 2. 43-1-1201 (5), Colorado Revised Statutes, is amended to read:

43-1-1201. Definitions. As used in this part 12, unless the context otherwise requires:

(5) "Transportation system" means the state transportation infrastructure and related systems, including highways AND TOLL ROADS OPEN TO THE PUBLIC and associated rights-of-way, bridges, vehicles, equipment, park and ride lots, transit stations, transportation management systems, ~~and~~ intelligent vehicle highway systems, AND OTHER GROUND TRANSPORTATION SYSTEMS.

SECTION 3. 43-1-1202 (1) (a) (X) and (1) (f), Colorado Revised Statutes, are amended to read:

43-1-1202. Department powers. (1) Notwithstanding any other law, the department may:

(a) Solicit and consider proposals, enter into agreements, grant benefits, and accept contributions for public-private initiatives pursuant to this part 12 concerning any of the following:

(X) Design, financing, construction, operation, maintenance, and improvement of TOLL ROADS OPEN TO THE PUBLIC AND turnpike projects within the state pursuant to part 2 of article 3 of this title;

(f) Exercise any power of the department authorized by law to facilitate the development and performance of public-private initiatives, INCLUDING BUT NOT LIMITED TO THE DEPARTMENT'S POWER OF EMINENT DOMAIN FOR THE PURPOSE OF ACQUIRING PROPERTY AND RIGHTS-OF-WAY NECESSARY FOR THE COMPLETION OF A TOLL ROAD OR TOLL HIGHWAY OPEN TO THE PUBLIC THAT IS INCORPORATED INTO THE STATEWIDE TRANSPORTATION PLAN PREPARED PURSUANT TO SECTION 43-1-1103 (5).

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 31, 2006